



Regular Meeting Minutes
PARKS AND RECREATION COMMISSION
Wednesday, July 6, 2005
Vista Del Camino Park Community Center
Activity Room
7700 E. Roosevelt

Present: Chairperson Loper, Vice-chair Cerimeli, Commissioners Shelley Anderson, John Faramelli, and Ron King

Absent: Commissioners Kemp Ellis and Stephen Owens

Staff Present: Leslie Clark, Bill Murphy, Jay Osborn, and Judy Weiss

CALL TO ORDER

Chairperson Loper called the meeting to order at 5 p.m.

MOMENT OF SILENCE

Chairperson Loper asked everyone to observe a moment of silence.

APPROVAL OF THE MINUTES

Chairperson Loper noted on page 7 paragraph 4, the sentence beginning with Chairperson Loper noted it was possible then to have people walking where horses are should be clarified to state, "is there anything on the trail that separates horse riders from pedestrians."

Commissioner Anderson moved to approve the minutes of the regular meeting of June 15, 2005 as clarified. Vice-chair Cerimeli seconded and the motion carried unanimously

BRIEFING ON LEGAL MATTERS OF GENERAL INTEREST TO COMMISSIONERS

Senior City Attorney Jay Osborn gave a briefing on the topics of open meeting laws, conflict of interest laws and other legal matters, relating to the roles and responsibilities of members of City boards and commissions.

Mr. Osborn reviewed the general provisions of the Arizona "Open Public Meeting Laws." The philosophy is the business of the public should be conducted in public. A meeting occurs when there is a quorum of the public body present and takes "legal action", which includes discussions and deliberations. There must be written notice of a public meeting, including an agenda, given not less than 24 hours prior to the meeting.

The public has the right to attend any public meeting and listen to what takes place, but not necessarily participate.. Minutes are required for any public meeting and are to be produced to the public within 3 working days after the meeting. Executive sessions are for the public to discuss issues in private and can only be held for specific purposes stated in the statute. Violations of open meeting laws are subject to sanctions and actions can be voided. Violations

are subject to penalties and attorney fees. A public body cannot legally discuss a matter that is not on the agenda. The Statutes have been amended to include electronic means of communication. It is important, therefore, for Commission members not to engage in discussions of matters that are or might come before them via e-mail. In some instances, e-mail discussions can constitute an illegal meeting. A quorum may be present at a public event and it is usually posted, indicating that it is not a meeting, and noted that the body will not be conducting business or taking legal action.

Chairperson Loper asked if an item is not on the agenda then the discussion is limited; if there is an issue that needs to be brought up in the future where would that occur. Mr. Osborn said items can be suggested under the Open Call agenda item. The Commission can ask staff to place any item on a formal agenda in the future. It is important that there is no discussion on items brought up under "Open Call to the Public."

Vice-chair Cerimeli asked if information that is sent by e-mail by staff and is subsequently redistributed to other commissioners, is that a violation. Mr. Osborn said the Commission shouldn't engage in discussions using e-mail, for the reasons previously stated.

Chairperson Loper noted there have been discussions amongst the Commission on how the meeting would take place and when was testimony was going to be given and it was done this way in the past. Would these conversations be improper. Mr. Osborn said it is not wrong, but is edging up into a dangerous area. The Commissioners should have a dialog with staff and have staff send information to other Commissioners for individual comment back to staff. Mr. Osborn said if the Commission can talk about how a matter would be handled at the meeting, but not about the merits of the issue.

Commissioner Faramelli noted e-mails can be used if you want to determine what kind of information you need at the meeting to make an informed decision. He thought when the discussion is completed and vote was taken there is the liberty to discuss the issue after that. Mr. Osborn said the issue could be brought back at a later time and, therefore, it is better to not discuss the issue afterward. It is appropriate to discuss administrative matters via e-mail. The State's Attorney General is clear on the issue and if there is a complaint it would be taken seriously.

Commissioner Anderson asked if it would be alright to get the opinion of another Commissioner regarding answers to issues. Mr. Osborn said if that is all you are asking that is fine. Ms. Weiss suggested using staff as a resource. Vice-chair Cerimeli noted sometimes there isn't enough information to make an informed decision and brainstorming within the group provides ideas to ask staff. Mr. Osborn said if you are in contact with only one other commissioner, or the chairperson it is probably fine, but you should then contact staff. The more Commissioners who become involved it the greater the chance of an open meeting law violation.

Mr. Osborn reviewed Conflict of Interest laws for the Commission. If a Commission member or relative has a substantial interest in a matter being decided by the Commission then he or she must abstain from participating in or voting on the issue. "Substantial interest" means a pecuniary—financial or proprietary—property interest, in a matter under consideration. In the event that a Commissioner believes they have a conflict of interests, they should declare it at the meeting and excuse himself/herself from the discussion and/or the vote. It may be a good idea to physically leave the panel and sit in the audience. If the Commissioner consults the City Attorney's office on a conflict of interest question and a written opinion is given, then the Commissioner is legally immune from a claim, even if the attorney is wrong. Mr. Osborn noted, if there is a question or concern, please contact him and he will review the situation and issue an opinion.

Commissioner Faramelli asked about the items that come forward as study items with no expectation of voting. Mr. Osborn said these would not necessarily be a conflict but it is recommended that you excuse yourself. It would depend on the facts of the specific matter.

Mr. Osborn reviewed the City Code regarding gifts and gratuities as the Commission is subject to those rules.

Mr. Osborn referred to the provision of the City Code relating to political activities and noted it does not apply to the Commission. A Commissioner can express a personal opinion on a political, but if they write a letter to an editor it should be noted they are making the statement as an individual, rather than on behalf of the Commission.

Commissioner King asked if he wrote a letter to the editor and didn't mention his association with the Commission, would that be okay. Mr. Osborn said it would.

Mr. Osborn noted if any Commissioner would want to run for City Council they would need to resign from the Commission. There is a State Statute and City Code that applies.

Commissioner Anderson asked what if a Commissioner moves out of the City. Mr. Osborn said they would have to resign.

REPEAL EXISTING BYLAWS OF THE PARKS AND RECREATION COMMISSION AND ADOPT RULES AND REGULATIONS TO GOVERN THE AFFAIRS OF THE COMMISSION.

Judy Weiss, Director of Parks & Recreation, Bill Murphy, Director of Parks & Grounds Management, and Jay Osborn, Senior Assistant City Attorney, presented the proposed Rules and Regulations for the Parks and Recreation Commission. The Commission reviewed the first draft on June 1, 2005, suggested changes and asked for clarification on some points. The Rules and Regulations have been updated to reflect those changes.

Commissioner Faramelli asked about the section stating "advise the city council regarding zoning and/or master plans for park sites." He wanted to see what the Code says. Ms. Weiss said she does recall that was to have been brought to the Commission. The language can be added to make the duties consistent. Mr. Osborn noted the Commission's authority is derived from the Code. This is to introduce the remainder of the document, which governs how the Commission operates their business. Powers and duties include any others conveyed in the City Code. Ms. Weiss said she can go back and do a search and pull references to park use and zoning. Commissioner Faramelli suggested going through subdivision regulations.

Vice-chair Cerimeli asked if the cancellation of a meeting is at the judgment of the Chairperson. Mr. Osborn said it was and they would then advise staff. Vice-chair Cerimeli asked about the section regarding missing 4 meetings. Mr. Osborn said that was consistent with most other boards and commissions.

Commissioner Faramelli asked if this Commission has any jurisdiction in the mountain preserve. Ms. Weiss said the Parks and Recreation Commission does not have any jurisdiction over the preserve.

Be consensus the Commission asked that this time be tabled until the zoning information is completed.

DIRECTOR'S REPORT OF CURRENT EVENTS (A.R.S. § 38-431.02(K))

Judy Weiss, Parks and Recreation Director, and William Murphy, Parks and Grounds Management Director, updated the Commission on the status of events and activities of the Parks and Recreation, and Parks & Grounds Management Divisions.

Ms. Weiss advised that Might Mud Mania will be held on Friday, July 29, 2005 at Chaparral Park. A Mescal Park focus group meeting was held on June 30, 2005 and there is still a conflict. There will be more meetings. Commissioner Anderson asked if the Commission could be invited. Ms. Weiss noted they are open to the public. Chairperson Loper noted they have received letters about even split. Ms. Weiss said this issue has polarized the neighborhood and hopefully it will come to a conclusion. Commissioner Faramelli asked what happens now. Ms. Weiss said it will go to the Planning Commission. Commissioner Anderson asked if the people in the retirement community rent not own the property. Ms. Weiss said she is not sure, but they live there and use the park.

Mr. Murphy noted the CAP basin stolons are completed. Trees around the stadium and Indian School Park have been relocated to parks and medians. The height of the wall at the Chaparral Lake will be increased and the water level will be higher.

Ms. Weiss reminded the Commission of the APRA Conference in August.

OPEN CALL TO THE PUBLIC (A.R.S. § 38-431.02)

Chairperson Loper called for any items from the floor or the Commission. There were none

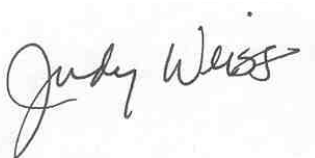
ADJOURNMENT

Vice-chair Cerimeli moved to adjourn the meeting. Commissioner Faramelli seconded and the motion carried unanimously.


With no further business to be brought before the Commission, Chairperson Loper adjourned the meeting at 6:35 p.m.

Respectfully submitted by Ruth Johnson, Recording Secretary.

Meets established criteria.



Judy Weiss, Director
Parks & Recreation



William B. Murphy, Director
Parks & Grounds Management